

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1842

5 By: Representative Murdock
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY TERMS UNDER THE ARKANSAS FISCAL
9 ASSESSMENT AND ACCOUNTABILITY PROGRAM; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO CLARIFY TERMS UNDER THE ARKANSAS
14 FISCAL ASSESSMENT AND ACCOUNTABILITY
15 PROGRAM.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 6-20-1904 is amended to read as follows:
22 6-20-1904. Indicators of fiscal distress.

23 (a) A school district meeting any of the following criteria may be
24 identified by the Department of Education to be a school district in fiscal
25 distress status upon final approval by the State Board of Education:

26 (1)(A) A declining balance determined to jeopardize the fiscal
27 integrity of a school district.

28 (B) However, capital outlay expenditures for academic
29 facilities from a school district balance shall not be used to put the school
30 district in fiscal distress;

31 (2) An act or violation determined to jeopardize the fiscal
32 integrity of a school district, including without limitation:

33 (A) Material failure to properly maintain school
34 facilities;

35 (B) Material violation of local, state, or federal fire,
36 health, or safety code provisions or law;



1 (C) Material violation of local, state, or federal
 2 construction code provisions or law;

3 (D) Material state or federal audit exceptions or
 4 violations;

5 (E) Material failure to provide timely and accurate legally
 6 required financial reports to the department, the Division of Legislative
 7 Audit, the General Assembly, or the Internal Revenue Service;

8 (F) Insufficient funds to cover payroll, salary, employment
 9 benefits, or legal tax obligations;

10 (G) Material failure to meet legally binding minimum
 11 teacher salary schedule obligations;

12 (H) Material failure to comply with state law governing
 13 purchasing or bid requirements;

14 (I) Material default on any school district debt
 15 obligation;

16 (J) Material discrepancies between budgeted and actual
 17 school district expenditures;

18 (K) Material failure to comply with audit requirements; or

19 (L) Material failure to comply with any provision of the
 20 Arkansas Code that specifically places a school district in fiscal distress
 21 based on noncompliance; or

22 (3) Any other fiscal condition of a school district deemed to
 23 have a detrimental negative impact on the continuation of educational
 24 services by that school district.

25 (b)(1) By August 31 of each year, the department shall report to the
 26 superintendent of a school district if the department is aware that the
 27 school district has experienced two (2) or more indicators of fiscal distress
 28 status in one (1) school year that the department deems to be at a
 29 nonmaterial level but that without intervention could place the district in
 30 fiscal distress status.

31 (2) The superintendent of a school district shall report to the
 32 department if the superintendent is aware the school district has experienced
 33 two (2) or more indicators of fiscal distress status in one (1) school year
 34 that the superintendent deems to be at a nonmaterial level but that without
 35 intervention could place the district in fiscal distress status.

36 (3)(A) The department and the superintendent shall review all

1 data related to the nonmaterial indicators of fiscal distress status.

2 (B)(i) Within thirty (30) days of the department's
 3 determination that the school district may be experiencing fiscal distress
 4 status at a nonmaterial level, the department shall provide a notice to the
 5 school district's superintendent and board of directors that:

6 (a) Describes the nonmaterial indicators of
 7 fiscal distress status that could jeopardize the fiscal integrity of the
 8 school district if not addressed; and

9 (b) Identifies the support available from the
 10 department to address each nonmaterial indicator of fiscal distress status.

11 (ii) The board of directors shall place on the agenda
 12 for the next regularly scheduled meeting of the board of directors a
 13 discussion of the notice of nonmaterial indicators of fiscal distress status.
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15 SECTION 2. Arkansas Code § 6-20-1906(a) and (b), concerning
 16 classification of fiscal distress status, is amended to read as follows:

17 (a) Those school districts identified by the Department of Education as
 18 being in fiscal distress shall be classified as school districts in fiscal
 19 distress status upon final determination by the State Board of Education.

20 (b) Any school district classified as in fiscal distress status shall
 21 be required to publish at least one (1) time for two (2) consecutive weeks in
 22 a newspaper of general circulation in the school district the school
 23 district's classification as a school district in fiscal distress status and
 24 the reasons why the school district was classified as being in fiscal
 25 distress status.
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27 SECTION 3. Arkansas Code § 6-20-1907 is amended to read as follows:
 28 6-20-1907. Debt issuance.

29 ~~No~~ A school district identified in fiscal distress status may not incur
 30 any debt without the prior written approval of the Department of Education.
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32 SECTION 4. Arkansas Code § 6-20-1908(a)-(c), concerning a fiscal
 33 distress plan, is amended to read as follows:

34 (a) Those school districts identified by the Department of Education as
 35 being in fiscal distress shall file with the department within ten (10) days
 36 after the final classification by the State Board of Education a written

1 fiscal distress status improvement plan to address any area in which the
 2 school district is experiencing fiscal distress status as identified by the
 3 department.

4 (b) Each school district shall seek and obtain approval of its plan
 5 from the department and shall describe how the school district will remedy
 6 those areas in which the school district is experiencing fiscal distress
 7 status and shall establish the time period by which the school district will
 8 remedy all criteria which placed the school district in fiscal distress
 9 status.

10 (c) A school district in fiscal distress status may only petition the
 11 state board for removal from fiscal distress status after the department has
 12 certified in writing that the school district has corrected all criteria for
 13 being classified as in fiscal distress status and has complied with all
 14 department recommendations and requirements for removal from fiscal distress
 15 status.

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 17 SECTION 5. Arkansas Code § 6-20-1909(a), concerning the Department of
 18 Education’s fiscal distress actions, is amended to read as follows:

19 (a) In addressing school districts in fiscal distress status, the
 20 Commissioner of Education may:

21 (1) Remove permanently, reassign, or suspend on a temporary basis
 22 the superintendent of the school district and:

23 (A) Appoint an individual in place of the superintendent to
 24 administratively operate the school district under the supervision and
 25 approval of the commissioner; and

26 (B) Compensate nondepartment agents operating the school
 27 district from school district funding;

28 (2) Suspend or remove some or all of the current board of
 29 directors and call for the election of a new board of directors for the
 30 school district, in which case the school district shall reimburse the county
 31 board of election commissioners for election costs as otherwise recognized by
 32 law;

33 (3) Require the school district to operate without a board of
 34 directors under the supervision of the local superintendent or an individual
 35 or panel appointed by the commissioner;

36 (4) Waive the application of Arkansas law or the corresponding

1 State Board of Education rules, with the exception of:

2 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
3 seq.; and

4 (B) The Public School Employee Fair Hearing Act, § 6-17-
5 1701 et seq.;

6 (5) Petition the state board for the annexation, consolidation,
7 or reconstitution of the school district;

8 (6) In the absence of a school district board of directors,
9 assume all authority of the board of directors as designated by the state
10 board as may be necessary for the day-to-day governance of the school
11 district;

12 (7)(A) Return the administration of the school district to the
13 former board of directors or to a newly elected board of directors if:

14 (i) The Department of Education certifies in writing
15 to the state board and to the school district that the school district has
16 corrected all issues that caused the classification of fiscal distress
17 status; and

18 (ii) The state board determines the school district
19 has corrected all issues that caused the classification of fiscal distress
20 status.

21 (B) If the commissioner calls for an election of a new
22 school district board of directors, the school district shall reimburse the
23 county board of election commissioners for election costs as otherwise
24 required by law;

25 (8) Otherwise reconstitute the school district; or

26 (9) Take any other action allowed by law that is deemed necessary
27 to assist a school district in removing the classification of fiscal distress
28 status.

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